Any economic action taken pursuant to a determination made under this section cannot be taken until the provisions of section 403 and 404 have been satisfied. However, in keeping with the Act's purpose of changing behavior, the President must first make every reasonable effort to conclude a binding agreement with the foreign country to cease the violations. If such an agreement is concluded, the President is not required to impose a sanction on that particular country for that particular year.

The Congress also recognizes that once sanctions are imposed under the International Religious Freedom Act, implementing sanctions the following year could be counterproductive. Accordingly, the Act provides that in such cases, or if a comprehensive sanctions regime is already in place in significant part because of human rights abuses, the President may designate those sanctions as fulfilling the purposes of the Act.

It is the intent of Congress that this Act require action abroad specifically and recognizably in response to violations of religious freedom, and that no provisions of the Act exempt the Department of State from recognizing that violations of religious freedom have occurred and taking action in response to those violations.

This section includes a provision that any determination made under this Act, or any amendment to this Act, shall not trigger any termination of assistance or activities as outlined in sections 116 and 502B of the Foreign Assistance Act of 1961.

Section 403. The consultations outlined in this section are necessary to achieve a coordinated international policy, to adequately ensure the safety of persecuted individuals or communities and to ensure that the economic interests of the United States are considered before our government takes economic action.

Many NGOs have operations in the very countries where persecution is ongoing and these organizations can provide valuable insight as to how the problem of violations of religious freedom can best be alleviated, and can help our government better understand specific situations in the country of concern or the potential harm any punitive action might have on their organization or persecuted communities. It is the intent of the Congress that these consultations be the norm.

TITLE V

This title seeks to promote religious freedom through authorizing assistance for legal protections of religious freedom abroad, international exchanges, international broadcasting to promote religious freedom and through incentives and awards to our diplomatic community to promote religious freedom.

Section 601. Use of Annual Report: This section provides that the Annual Report on International Religious Freedom serve as a resource for U.S. officials adjudicating asylum and refugee applications involving claims of religious persecution. U.S. officials may not deny a claim solely because conditions described by an applicant are not referenced by the Annual Report.

Section 602. Reform of Refugee Policy: U.S. officials are assisted in processing potential refugees around the world by personnel hired abroad. Unfortunately, such personnel are sometimes influenced by unfairly prejudicial biases that affect their screening and processing of potential refugees. United States refugee policy should not be compromised by local prejudices based on religion, race, nationality, membership in a particular social group, or political opinion. To lessen the possibility of unfair discrimination by personnel hired abroad, and to provide greater oversight of U.S. hiring polices, section 602 requires the Attorney General and the Secretary of State to develop and implement anti-bias guidelines, and to develop guidelines for entering into agreement with local refugee processing organizations.

The Act also requires all U.S. refugee-processing officers to receive the same level of training as U.S. asylum officers, who currently receive more comprehensive training. This training includes instruction on the nature and extent of religious persecution abroad. The Act also requires Foreign Service officers who might have refugee-processing responsibilities to receive adequate training in refugee law and in the nature of religious persecution abroad.

Section 603. Reform of Asylum Policy: U.S. officials are assisted in processing potential asylees by interpreters, and other non-U.S. personnel who may be influenced by unfairly prejudicial biases that may affect such processing. To lessen the possibility of unfair discrimination by such personnel, section 603 requires the Attorney General and the Secretary of State to develop and implement anti-bias guidelines. Personnel of airlines owned by foreign governments known to engage in persecution are prohibited from employment as interpreters. The Act requires training for all immigration inspectors, asylum officers and immigration judges in the nature and extent of religious persecution abroad.

Section 604. Inadmissibility of Foreign Government Officials Who Have Been Engaged in Severe Violations of Religious Freedom: Section 604 provides that foreign government officials responsible for particularly severe violations of religious freedom in the last two years, and their families, shall not be admitted to the United States.

Section 605. Studies on the Effect of Expedited Removal for Asylum Claims: Under section 605, the Commission on International Religious Freedom may invite outside experts to cooperate with the U.S. General Accounting Office in studying and reporting on the effect of the expedited removal process on potential asylees.

Section 701. The Act recognizes that transnational corporations play an increasing role as agents for change around the world and have a great potential for positive leadership abroad in human rights. The Act states the Sense of the Congress that U.S. transnational corporations should adopt codes of conduct upholding the religious rights of their employees.●

AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

● Mr. KENNEDY. Mr. President, I commend Senator ABRAHAM, the Chairman of the Senate Immigration Subcommittee, for his leadership in reaching this acceptable compromise that addresses the needs of our high-tech industry and is fair to U.S. workers. I also commend the White House for its strong commitment to protecting the U.S. labor force. This is an issue of major importance to the high-tech industry and U.S. workers. High-tech jobs are growing at three times the rate of other jobs. Over the next ten years, high-tech computer companies will need 1.3 million additional employees.

Few dispute the fact that today, U.S. high-tech companies are unable to find enough skilled workers to meet the mushrooms demands of their rapidly growing industry. Universities are also unable to obtain enough talented faculty members and researchers to fill critical high-tech academic positions. If these shortages persist, the growth and vitality of U.S. high-tech companies will be undermined and our role as a leader in technology and research will be diminished.

The obvious solution to this current crisis is to increase the number of temporary visas available to skilled foreign workers. But the increase should not be permanent. Our immigration laws should not jeopardize opportunities for young Americans, downsized defense workers, and others who wish to enter the dynamic field of high-tech industries.

The current compromise reaches a fair balance—by temporarily increasing the number of high-tech visas over the next three years, and then reinstating the current annual cap of 65,000 visas after the third year.

Many of the foreign workers who will benefit from this compromise are exceptionally talented. They represent the ''best and brightest'' the world has to offer. We welcome these accomplished individuals and the unique skills they will bring to strengthen and diversify our economy.

However, most of the positions that will be filled by these additional foreign workers are simply good middle class jobs. Most of the jobs are lower level computer programmers. Many are physical therapists, occupational therapies, or nurses. It is shameful that U.S. workers do not have the skills to compete for these jobs. The fact that American workers lack the training skills to compete for these good jobs is an incident of our educational system. Clearly, we need to do more to find a long-term solution to this festering problem. And this bill gives three years to address this failure.

I have long insisted that any legislation increasing these visas should substantially invest in improved job training for U.S. workers and better education for U.S. students. We must give the U.S. workers the skills they need to qualify for these jobs. It makes no sense to throw in the towel by increasing quotas—even temporarily—without also investing in our own labor force. As a nation, we have an obligation to invest in our own workers and students.

Many firms are doing the right thing. Many of the large computer companies spend millions of dollars each year training their workers, and encouraging young men and women to choose high-tech careers. The compromise before us today enhances that commitment.

Earlier this year, Senator FEINSTEIN and I proposed a way to provide genuine training for American workers, without costing the taxpayer a single penny. I am pleased that the legislation before the Senate today incorporates our idea and achieves this goal.

It contains a reasonable fee for visa petitions and visa renewals for high-tech foreign workers. The $500 visa application fee included in the compromise will generate approximately $75 million a year.

One third of these funds will be used to fund National Science Foundation scholarships in math, engineering, and computer science for low-income students. The remaining funds will be used to train U.S. workers. As a result, many students and many workers will obtain the skills necessary to compete successfully for these good jobs. It is imperative that we provide as many U.S. workers as possible with the skills and specialized training to qualify for these positions.

The high-tech industry must also do a better job of recruiting U.S. workers. We have all read the reports about unscrupulous employers who pay only lip-service to recruiting U.S. workers, because they know they can obtain cheaper foreign labor. It makes sense that employers should recruit in the U.S. first, in cities like Boston, Detroit, or Los Angeles, before bringing workers in from Beijing, New Delhi, or Moscow. Only if employers cannot find qualified U.S. workers, should they be allowed to recruit and hire foreign workers.

The following are a few examples of how U.S. employers have only payed lip service to recruiting U.S. workers.

A high-tech facility in New Mexico announced a hiring freeze and refused to accept job applications. But at the same time, they brought in 53 foreign workers under the high-tech visa program.

Alan Ezer is a 45-year-old computer programmer with 10 years of experience in the field. He has kept his skills up to date. He was willing to take a pay cut to stay in the industry. After he was laid off, he sent out 150 resumes. He got only one job interview and no job offers.

Rose Marie Roo is an experienced computer programmer. But when no one would hire her to do computer work, she and her husband opened a bed and breakfast in Florida.

Peter Van Horn, age 31, has a master's degree in computer science. He lives in California, but employers won't hire him either.

The list goes on and on. Many of the nation's high-tech firms are blatantly turning away qualified U.S. workers while appealing to Congress for more foreign workers.

As a result of this problem, Senator FEINSTEIN and I fought long and hard to ensure that strong recruitment requirements would be included in the high-tech visa legislation. This compromise contains a worthwhile provision on this issue, and I commend Senator ABRAHAM for supporting our effort.

High-tech companies will be required to demonstrate that they have taken good faith steps to recruit in the U.S., according to industry-wide standards. Companies will be required to offer jobs to any U.S. workers who applies for a position and is equally or better qualified for the job than the foreign applicant. U.S. workers should have first crack at these jobs, and with this legislation, they will have it.

We should also make every effort to retain skilled U.S. workers presently holding these high-tech positions. There have been countless media stories about predatory high-tech computer firms firing talented middled-aged employees and replacing them with foreign workers willing to work longer hours for less pay. In the most flagrant instances, the replaced U.S. workers have even been asked to train their foreign replacement.

I am pleased that this compromise contains needed protections to guard against such abusive layoffs. Until now, it was legal under our immigration laws for an employer to fire U.S. workers and replace them with cheaper foreign workers. As a condition of participating in this compromise, employers covered under the legislation must attest that they have not laid off U.S. workers and tried to replace them with foreign workers.

The compromise contains many worthwhile provisions, but it also has flaws. One of the most serious defects is that the new recruitment and layoff attestations do not cover all employers hiring skilled foreign workers. The compromise exempts the largest high-tech companies from the new attestation requirements, even though some of these firms are the most serious violators.

Nevertheless, the Department of Labor will have increased enforcement powers. Under the previous law, the Department of Labor was restricted to waiting for complaints to be filed before they could act. The Department will now have authority to investigate compliance if they receive specific credible information that a violation has occurred. Additionally, the Department of Labor will now be empowered to conduct random investigations of even exempt employers if they are found to have committed violations. Violators will face stiffer fines and other punishment.

A second flaw in the legislation is the failure to cap the number of visas made available to health care workers. The effect of the abolition of this cap is that U.S. health care workers, particularly physical and occupational therapists, will be increasingly unable to find work. A recent study by the American Physical Therapy Association indicates that by the year 2000, there will be an 11% surplus of physical therapists in the United States. By the year 2005, this surplus will increase to 20–30%. Faced with these estimates, it is impossible to conclude that there is a shortage of physical therapists in this country. I urge the Department of Labor to reconsider its classification of physical and occupational therapy as occupations for which there is a blanket shortage of labor.

Despite these flaws, the compromise is, on the whole, fair to both U.S. and foreign workers. It provides much-needed protections for foreign workers. We must make sure that foreign workers who are brought to this country are not abused by their employers. The law requires that temporary foreign workers must be paid the prevailing wage for the specialty work they perform, including salary and benefits. This compromise requires employers to treat all similarly situated workers equally.

Finally, I am pleased that the compromise contains whistleblower protections I had recommended earlier this year. Despite serious abuses, few complaints were filed by workers because they were afraid of retaliation. Foreign workers were afraid that if they complained they would lose their jobs and be forced to leave the country. American workers were afraid to complain because they feared being blackballed in the industry.

This compromise protects workers who courageously report violations. Those who report abuses to the Department of Labor may request that their identity not be disclosed. And more important, workers who file complaints or cooperate with investigations cannot be intimidated, threatened, restrained, coerced, blacklisted, or discharged by their employer.

Overall, this compromise is a reasonable solution of the current difficult problem. It deserves bipartisan support.●

TARIFF AND TECHNICAL CORRECTIONS ACT OF 1998—H.R. 4342

● Mr. ROTH. Mr. President, on September 29, the Finance Committee reported unanimously H.R. 4342, the Miscellaneous Tariff and Technical Corrections Act of 1998. It was my hope that we would pass this legislation this year. Unfortunately, for reasons unrelated to the substance of the bill, this did not happen.

The failure of this legislation is disappointing because it served a number of important practical purposes. For example, this bill would have temporarily suspended or reduced the duty on a large number of products, including a wide variety of chemicals used to make anti-HIV, anti-AIDS and anti-cancer drugs. Also included were certain organic pigments which are environmentally benign substitutes for pigments containing toxic heavy metals.

In each instance, there were either no domestic production of the product in question or the domestic producers supported the measure. By suspending or reducing the duties, we would have enabled U.S. firms that use these products to produce goods in a more cost efficient manner, thereby helping create jobs for American workers and reducing costs for consumers.

The bill also contained a number of technical corrections and other minor modifications to the trade laws that